IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 19131 of 2006(C)

A.S.135/2005 OF I ADDL. DISTRICT COURT, TRIVANDRUM
.....

PETITIONER:

S.AMBIKA, W/O. SAHADEVAN,
SREELASYAM, T.C.2/197, KESAVADASAPURAM,
THIRUVANANTHAPURAM-35.

BY ADV. SRI.V.P.K.PANICKER.

RESPONDENT:

K.RADHAMMA,
CHERIYAKUNNATHU VEEDU, ULLOOR VILLAGE,
MOSQUE LANE, KESAVADASAPURAM, V.P.II/98,
PATTOM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.J.HARIKUMAR,
ADV. SRI.HARIKUMAR.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.19131/2006-C:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PLAINT IN O.S. NO. 21/99 ON THE FILE OF THE SUBORDINATE JUDGE'S COURT, THIRUVANANTHAPURAM.

EXT.P.2: COPY OF THE MEMORANDUM OF APPEAL SUBMITTED BY THE RESPONDENT.

EXT.P.3: COPY OF THE I.A. NO. 1508/2005 IN A.S. NO. 135/05 ON THE FILE OF THE DISTRICT COURT, THIRUVANANTHAPURAM.

EXT.P.4: COPY OF THE ORDER DTD. 06/06/2005 IN I.A. NO. 1508/05 IN A.S. NO. 135/2005 ON THE FILE OF THE DISTRICT COURT, THIRUVANANTHAPURAM.

EXT.P.5: COPY OF THE COUNTER AFFIDAVIT OF THE PETITIONER TO I.A. NO. 1508/05 IN A.S. NO. 135/2005 ON THE FILE OF THE DISTRICT COURT, THIRUVANANTHAPURAM.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 19131 OF 2006

= = = = = = = = = = = = = = =

Dated this the 19th day of October, 2007.

J U D G M E N T

This writ petition is filed against the order of the I Addl. District Judge, Thiruvananthapuram in I.A.1508/05 in A.S.135/05. This interim application is to grant a stay of further proceedings in pursuance to the judgment and decree in O.S.21/99 of the II Addl. Sub Court, Thiruvananthapuram.

2. Heard both sides. Learned counsel for the respondent pointed out to me that the plaintiff is granted a decree for realisation of the amount from the defendant and her assets schedule to the plaint. The learned counsel for the respondent would contend that in case of default there are properties which is attached that can be proceeded with and that the said assets will be sufficient as security for the purpose of realisation of the decree amount. On the other hand, the learned counsel for the writ petitioner would contend that the said properties had been transferred. When

there is a decree for realisation of the amount it is imperative on the part of the Court to direct the Court to defendant to furnish security. The Court below has not considered the said aspect. Therefore, the order under challenge is set aside and I.A. 1508/05 is remitted back to the Court below with a direction that the defendant shall furnish security for the amount decreed. What can be the security and whether it is sufficient etc. are matters which can be decided by the Court after hearing the other side.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-